IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17937 of 1996

Between:

Dr.Reddy Satya Rao,

S/o. Appala suryanarayana
R/o.Bobbili , Vizianagaram dist.

.... PETITIONER

AND

1. Asst. Commissioner of Labour & Authority

Under Sec.48 of A.P.Shops & Establishments Act , 1988
Vizianagaram.
2. Court of Addl.Judicial First Class Magistrate,
Bobbili , Vizianagaram dist.
3. Kosura syamala Rao,

S/o. Simhachalam
R/o.Bobbili , Vizianagaram Dist.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ declaring that the proceedings in Criminal M.P.No.4413/96 on the file of the 2nd respondent initiated by the 1st respondent for the alleged benefit of 3rd respondent are with out jurisdiction and consequently direct the 2nd respondent to forbear from proceedings further with the case in Criminal M.P.No.4413/96 against the petitioner and grant

such other relief as it deems fit and proper.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondent Nos.1 & 2: The Govt.Pleader for Labour

Counsel for the Respondent No.3: SMT.M.BHASKARA LAKSHMI

The Court made the following:

ORDER:

This writ petition is filed in the nature of a writ of Prohibition, seeking interdiction of the entertainment of Criminal M.P.No.4413 on the file of the Additional District Munsif at Bobbili. The Criminal Miscellaneous Petition was filed by the first respondent herein for recovery of an amount of Rs.1,02,671 (Rupees one lakh two thousand and six hundred seventy one only) towards amounts payable by the writ petitioner to the third respondent herein. Consequent on the award of the Labour Court in S.A.No.14 of 1986 dated 30-05-1986, the Criminal Miscellaneous Petition was filed under Section 48(5) of the A.P. Shops and Establishments Act, 1988.

2. The petitioner contends that the amount for the recovery of which the Criminal Miscellaneous Petition was filed is disputed by him and that the determination process consecrated to the second respondent Court under sub Section 5 of Section 48 does not permit any adjudication of disputes as to the quantum of the amount in respect of which recovery orders may be issued by the second respondent.

3. In the considered view of this Court, the above contention is misconceived.

The award of the Labour Court dated 30-05-1986 in S.A.No.14 of 1986 directs reinstatement of the third respondent into service with full back wages and continuity of service. Whether as consequence of such an order of the Labour Court, any amount is payable, and if so what amount, is always an aspect that requires an assertion which is capable of denial either as to the liability at all or the quantum of liability. In a context where a dispute on that aspect to the matter is urged, the second respondent is obligated to determine such dispute within the plenitude of the jurisdiction under Section 48(5) of the Act. The second respondent Court is not shown to have any patent incompetence to determine the issues properly arising under sub Section 5 of Section 48 of the Act.

4. Any errors in the determination by the second respondent could be corrected in appropriate proceedings in appeal, revision or certiorari as the case may be.

5. For the above reasons, there are no merits in the writ petition. The writ petition is dismissed. The petitioner is at liberty to file any pleading in opposition to the Crl.M.P.No.4413 of 1996, within a period of ten days from the date of receipt of a copy of this order. On such an application being filed, the pleas therein as to the quantum of liability shall be determined in the adjudication of the Criminal Miscellaneous Petition, by the second respondent. No order as to costs.

04-08-2004

LSK/LUR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Asst. Commissioner of Labour & Authority

Under Sec.48 of A.P.Shops & Establishments Act , 1988
Vizianagaram Dist.
2. The Addl.Judicial First Class Magistrate,
Bobbili , Vizianagaram dist.
3. Two C.Cs. to Government Pldeader for Labour

High Court Buildings, Hyderabad.(OUT)

4. Two C.D. copies.